

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

**TRANSPORTATION
MANAGEMENT SERVICES, INC.,
Plaintiff**

V.

**HISCOX INSURANCE COMPANY,
INC.,**
Defendant

No. 1-23-CV-00740-DII

ORDER

Before the Court is Defendant Hiscox Insurance Company's Opposed Motion for Extension of Time to File an Answer, Dkt. 11. The District Court referred the motion to the undersigned for disposition. After considering the briefs and the applicable law, the undersigned grants Hiscox's motion.

Hiscox requests that its deadline to answer or otherwise respond to Plaintiff Transportation Management Service's ("TMS") state court pleading (removed to this court on June 29, 2023) be extended from August 10, 2023, to September 1, 2023. Dkt. 11, at 2. The District Court has twice granted an extension of the deadline, first to July 24, 2023, and then to August 10, 2023. Hiscox represents that it approached TMS about a third extension, notified TMS that its lead counsel had knee surgery during the prior extension period and states that it has been waiting on an amended pleading that has yet to be filed, but that TMS stated it would file. Dkt. 11, at 2-3.

Hiscox requests an extension until September 1, 2023, to answer the original state court pleading. *Id.* at 3.

TMS states that it approved of prior extensions so that the parties could participate in early settlement discussions, but Hiscox has not made settlement proposals in good faith during the relevant extension periods. Dkt. 12, at 2. In fact, TMS states, Hiscox has made no offers at all and instead continues to promise to negotiate as to settlement in the near future. *Id.* at 2.

Given the proximity of the filing of Hiscox's motion to the requested extension deadline, the passage of the standing August 10, 2023, deadline, and the fact that, under Rule 55(a) Hiscox may be exposed to entry of default judgment against it, the undersigned grants Hiscox's motion. Hiscox is advised that it must file its answer to the operative complaint on or before September 10, 2023. Fed. R. Civ. P. 55(a). This is the final extension the Court will grant with respect to Hiscox's answer deadline.

IT IS ORDERED that Hiscox's Motion for a Final Extension of Time to Respond to the Operative Pleading, Dkt. 11, is **GRANTED**.

SIGNED August 15, 2023.



DUSTIN M. HOWELL
UNITED STATES MAGISTRATE JUDGE